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10/057,731	01/24/2002	Jim Janesick	01901071	3160

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[REDACTED] EXAMINER

DICKEY, THOMAS L

ART UNIT	PAPER NUMBER
	2826

DATE MAILED: 07/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/057,731	JANESICK, JIM
	Examiner	Art Unit
	Thomas L Dickey	2826

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 15 April 2003.
- 2a) This action is FINAL.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-34 and 58-71 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-34 and 58-71 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.      4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_

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## **DETAILED ACTION**

1. The amendment filed on 04/25/03 has been entered.

### ***Election/Restriction***

2. In Paper #8 filed on 4/29/03, Applicant points out that figures 1 and 2 show different views of a single embodiment. Applicant is correct, and the first embodiment, which Applicant elects, is considered to encompass the subject matter disclosed by both figures 1 and 2. Applicant's provisional election of claims 1-11 is acknowledged.
3. In Paper #8 filed on 4/29/03, on page 7, applicant expressly admits that the inventions claimed in claims 1-34 and 58-71 are obvious over each other within the meaning of 35 USC § 103. In light of this admission, the requirement of an election of species is withdrawn.

### ***Oath/Declaration***

4. The oath/declaration filed on 1/24/02 is acceptable.

### ***Drawings***

5. The drawings are objected to by the PTO Draftsperson for the reasons noted on the attached Notice of Draftsperson's Patent Drawing Review, form PTO-948.

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A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Priority***

6. Applicant's claim to CIP status from U.S. Patent Application 09/977,444 is acknowledged.

***Information Disclosure Statement***

7. If applicant is aware of any relevant prior art, he/she requested to cite it on form PTO-1449 in accordance with the guidelines set forth in M.P.E.P. 609.

***Specification***

8. The abstract of the disclosure is objected to because:

The abstract is not clearly indicative of the invention to which the claims are directed. The use of the term "Pinned Transfer Gate" conveys no sense of the invention, as this term is not a term known to the art. The phrase "Pinned Transfer Gate disposed to transfer charge" does not convey to the reader how said transfer is accomplished. Correction is required. See MPEP § 608.01(b).

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***Double Patenting***

9. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. § 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

Claims 1-11 are provisionally rejected under 35 U.S.C. § 101 as claiming the same invention as that of claims 1-11 of copending Application No. 09/977,444. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented. Note that claims 1-11 of the copending application claim the invention in the same words as claims 1-11 in the instant application.

10. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to

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prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-34 and 58-71 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of copending Application No.10/135,708. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

With regard to claim 1, claim 1 of Application No.10/135,708 discloses at least one imager cell comprising a photoreceptor; a sense node; and a transfer gate disposed to transfer charge between the photoreceptor and the sense node. While the transfer gate of Application No.10/135,708 is described as a "transfer gate establishing a readout potential well," not a "pinned transfer gate," the use of a "pinned transfer gate" in this com-

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bination is considered obvious over Application No.10/135,708's use of a "transfer gate establishing a readout potential well" in the same combination, because at page 7 lines 3-8 of the instant application, Applicant discloses that the "pinned transfer gate" encompasses amongst its embodiments a transfer gate capable of establishing a readout potential well.

As obvious variants of claim 1 (per applicant's admission in Paper #8 filed on 4/29/03) claims 2-34 and 58-71 are also rejected as obvious over claim 1 of copending Application No. 10/135,708. This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

#### ***Claim Rejections - 35 USC § 112***

11. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-34 and 58-71 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. These claims are directed to combinations that include an element referred to as a "Pinned Transfer Gate". It is not known in the art how to make and use a "Pinned Transfer Gate," nor has Applicant sufficiently explained how to do so. In particular:

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- I. Applicant has not shown, nor is it known to the art, whether a "Pinned Transfer Gate" must be electrically tied to the substrate and if so, applicant has not shown how this tying is accomplished.
- II. One having skill in the art would not understand whether a "Pinned Transfer Gate" requires that an insulated, clocked transfer gate, such as element 210 shown in applicant's figure 2, be present in order to achieve the invention, or on the other hand whether the invention requires that such an insulated, clocked transfer gate not be present, as seems to be implied in page 7, lines 1-4 of the application.

In the context, not of an imager but rather of a charge transfer device, Hynecek 4,994,875 discloses a "virtual transfer gate" wherein a "virtual electrode" prevents electrons from transferring until the voltage on an insulated "conductive electrode" reaches a critical negative voltage. Hynecek's "virtual electrode" is a P type region which is tied to a substrate by virtue of being in electrical contact with P+ type channel stops which are in turn in electrical contact with the substrate. Hynecek requires that there be no conductive electrode formed over the "virtual electrode" region.

Also in the charge transfer device art is the teaching of Janesick 5,077,592, which discloses an "open pinned-phase region" comprising a concentrated but very shallow implant of P-type dopant (B) in an n-channel 10, which pins the surface potential to zero volts and acts as a virtual gate. Similar to Hynecek, Janesick requires that there be no conductive electrode formed over the "open pinned-phase region" region.

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Would it be possible for one to make the element Applicant identifies as a "Pinned Transfer Gate" by following the teachings of Hynecek 4,994,875 or Janesick 5,077,592? In either of these two cases, Applicant should amend figure 2 so that insulated charge transfer gate 210 is not in the figure.

***Claim Rejections - 35 USC § 102***

**12.** The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**A.** Claims 1 and 5-8 are rejected under 35 U.S.C. 102(e) as being anticipated by GUIDASH (20020121656).

Guidash discloses an imager cell comprising a photoreceptor, being a photodiode 12, a sense node 24; and a pinned transfer gate 14 disposed to transfer charge between the photoreceptor 12 and the sense node 24, a reset transistor 16 disposed to reset the sense node 12, and an output amplifier 18, being configured as a source follower amplifier, coupled to the sense node 24. Note figures 2 and 5 of Guidash.

**B.** Claims 1,2, and 5 are rejected under 35 U.S.C. 102(e) as being anticipated by the device depicted in figure 1 of ZHENG et al. (20020121655).

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Zheng et al. discloses an imager cell comprising a photoreceptor, being a photodiode 22, a sense node (the drain of the p-MOSFET), and a pinned transfer gate (the p-MOSFET) disposed to transfer charge between the photoreceptor 22 and the sense node, wherein the pinned transfer gate comprises a p-doped pinned region (labeled p+) in an n-doped transfer region (labeled n-well). Note figure 1 of Zheng et al.

**C.** Claims 1,3,4, and 6 are rejected under 35 U.S.C. 102(e) as being anticipated by the device depicted in figure 5 of ZHENG et al. (20020121655).

Zheng et al. discloses an imager cell comprising a photoreceptor, being a photogate, a sense node 96, and a pinned transfer gate 83 disposed to transfer charge between the photoreceptor (photogate) and the sense node 96, and a photoreceptor readout gate 94 disposed above the photoreceptor (photogate). Note figure 5 of Zheng et al.

#### ***Claim Rejections - 35 USC § 103***

**13.** The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**A.** Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over ZHENG et al. (20020121655) in view of TURKO et al. (5,121,214).

Zheng et al. discloses an imager cell with all the limitations of claims 9-11, including a photoreceptor readout gate, except a readout clock connection coupled to the photo-

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receptor readout gate, control circuitry coupled to the readout clock connection, the control circuitry supplying a photoreceptor readout clock, the photoreceptor readout clock is characterized by a V+ level applied during an integration period, and a V- level applied during a transfer period. Note figure 5 of Zheng et al.

However, Turko et al. discloses an imaging array with a readout clock connection 18 coupled to a photoreceptor readout gate, control circuitry 14 coupled to the readout clock connection 18, the control circuitry 14 supplying a photoreceptor readout clock 68, the photoreceptor readout clock 68 is characterized by a V+ level (the upper value of clock trace 68) applied during an integration period 92, and a V- level (the lower value of clock trace 68) applied during a transfer period 94. Note figures 1 and 3 of Turko et al. Therefore, it would have been obvious to a person having skill in the art to augment Zheng et al.'s imager cell with the readout clock connection coupled to a photoreceptor readout gate, control circuitry coupled to the readout clock connection, the control circuitry supplying a photoreceptor readout clock, the photoreceptor readout clock characterized by a V+ level applied during an integration period, and a V- level applied during a transfer period, such as taught by Turko et al. in order to compress the charge of an entire video field into a single video line to thus provide that the resultant line can then be "dumped" out of a horizontal register by sequencing the combined charges out past a charge coupled amplifier.

**B.** Claims 12-34 and 58-71 are rejected under 35 U.S.C. 103(a) as being unpatentable over GUIDASH (20020121656).

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Guidash discloses an imager cell comprising a photoreceptor, being a photodiode 12, a sense node 24; and a pinned transfer gate 14 disposed to transfer charge between the photoreceptor 12 and the sense node 24, a reset transistor 16 disposed to reset the sense node 12, and an output amplifier 18, being configured as a source follower. These elements are all the elements of claim 1. By applicant's express admission, claims 12-34 and 58-71 are obvious over these elements. See Paper #8 filed on 4/29/03, page 7.

**C. Claims 12-34 and 58-71 are rejected under 35 U.S.C. 103(a) as being unpatentable over the device depicted in figure 1 of ZHENG et al. (20020121655).**

Zheng et al. discloses an imager cell comprising a photoreceptor, being a photodiode 22, a sense node (the drain of the p-MOSFET), and a pinned transfer gate (the p-MOSFET) disposed to transfer charge between the photoreceptor 22 and the sense node, wherein the pinned transfer gate comprises a p-doped pinned region (labeled p+) in an n-doped transfer region (labeled n-well). Note figure 1 of Zheng et al. These elements are all the elements of claim 1. By applicant's express admission, claims 12-34 and 58-71 are obvious over these elements. See Paper #8 filed on 4/29/03, page 7.

**D. Claims 12-34 and 58-71 are rejected under 35 U.S.C. 103(a) as being unpatentable over the device depicted in figure 5 of ZHENG et al. (20020121655).**

Zheng et al. discloses an imager cell comprising a photoreceptor, being a photogate, a sense node 96, and a pinned transfer gate 83 disposed to transfer charge between the photoreceptor (photogate) and the sense node 96, and a photoreceptor readout

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gate 94 disposed above the photoreceptor (photogate). Note figure 5 of Zheng et al. These elements are all the elements of claim 1. By applicant's express admission, claims 12-34 and 58-71 are obvious over these elements. See Paper #8 filed on 4/29/03, page 7.

### ***Conclusion***

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas L Dickey whose telephone number is 703-308-0980. The examiner can normally be reached on Mon-Thu 8-6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas L Dickey whose telephone number is 703-308-0980. The examiner can normally be reached on Mon-Thu 8-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Flynn can be reached on (703) 308-6601. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9318 for regular communications and 703-872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

TLD  
06/2003

  
Minh Loan Tran  
Primary Examiner